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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,557	09/19/2003	Kevin McMains	LGPL.104360	4596

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EXAMINER

LE, TAN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/664,557

**Applicant(s)**

MCMAINS, KEVIN

**Examiner**

Tan Le

**Art Unit**

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This is the first office action for application serial number 10/664,557. This application contains 22 claims numbered 1-22.
2. The IDS submitted on 3/12/04 has been reviewed and considered.
3. Claim 2, after "therebetween" should be ended with --. --.  
Claim 3, after "or both" should be ended with --. --. Correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 3-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the bottom surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the midpoint" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "said top plate" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the perimeter" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "said range" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "said detent" in line 5. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,210,303 to Torta et al.

Regarding claim 1, Torta et al. teaches a horizontal adjustment mechanism for use with a chair having a base (not shown), a seat supported on the base and defining a fore-to-aft longitudinal axis, and a seat back (S), the mechanism comprising a first plate (20) adapted to be coupled to the seat; a second plate (18) adapted to be coupled to the base, said second plate being slidably coupled to said first plate such that said first and second plates can move relative to one another along the longitudinal axis of the seat; and a lever (44, 46), said lever containing a first mating portion adapted to be releasably received in a recess (52) located in the first plate and a second mating portion including a projection (50) adapted to be releasably received in a plurality of notches (32) located on the second plate wherein said lever is operable to selectively

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engage the second mating portion and one or more of said notches and is operable to selectively release the second mating portion from one or more of said notches to allow the first plate to move relative to the second plate.

Regarding claims 2-3, Torta et al. also teaches an intermediate portion (36, 38) positioned between the first and second plates for facilitating relative sliding movement therebetween; wherein the intermediate element can be considered as being an integral portion with a bottom surface of the second plate. It should be noted that although the intermediate portion is not structurally integral, but they are rigidly secured and hence are integral in functional sense. In re Clark (CCPA 102 USPQ 241).

Regarding claims 4-6, Torta et al. also teaches the recess being generally rectangular and located at a midpoint of the first plate; the second mating portion of the lever including a plurality of projections (48, 50); and the plurality of notches (32) (Fig. 5) are integrally formed with the second plate.

Regarding claim 21, Torta et al. also teaches the subject matter of claim 22 since claim 22 recites limitations similar to those recited in claims 1 and 2, where a spacer in this case interprets as an intermediate element.

Claims 1-3 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,336,619 to Wahls.

Regarding claim 1, Wahls teaches a horizontal adjustment mechanism for use with a chair having a

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base (16), a seat supported on the base and defining a fore-to-aft longitudinal axis, and a seat back (not shown), the mechanism comprising a first plate (14) adapted to be coupled to the seat; a second plate (12) adapted to be coupled to the base, said second plate being slidably coupled to said first plate such that said first and second plates can move relative to one another along the longitudinal axis of the seat; and a lever (68), said lever containing a first mating portion (Fig. 5, at 66) adapted to be releasably received in a recess (66) located in the first plate (14) and a second mating portion including a projection (70) adapted to be releasably received in a plurality of notches (40) located on the second plate (12, Fig. 3) wherein said lever is operable to selectively engage the second mating portion and one or more of said notches and is operable to selectively release the second mating portion from one or more of said notches to allow the first plate to move relative to the second plate.

Regarding claims 2-3, Wahls also teaches an intermediate portion (U-shaped strip) (36, Fig. 3)) positioned between the first and second plates for facilitating relative sliding movement therebetween; wherein the intermediate element can be considered as being an integral portion with a bottom surface of the second plate. It should be noted that although the intermediate portion is not structurally integral, but they are rigidly secured and hence are integral in functional sense. In re Clark (CCPA 102 USPQ 241.

Regarding claim 21, Wahls also teaches the subject matter of claim 22 since claim 22 recites limitations similar to those recited in claims 1 and 2, where a spacer in this case interprets as an intermediate element.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torta et al. or Wahls.

Wahls or Torta et al each teaches structurally as claimed as discussed above, the method of constructing a horizontal adjustment mechanism as recited in claim 22 would have been obvious in view of the structure as taught by Wahls or Torta et al.

***Allowable Subject Matter***

7. Claims 7-20 are rejected but would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,135,412 to Buehler

6,799,803 to Lee et al.

6,010,194 to Cykon

6,572,195 to Lee

5,234,189 to Myers

5,678,886 to Infanti

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5,660,442 to Tornero

5,192,045 to Yamada

6,273,384 to Hallmark et al.

The above patents disclose various types of support and guide devices for adjustable seats.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244.


The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
Patent examiner  
February 28, 2005



**RAMON O. RAMIREZ**  
PRIMARY EXAMINER